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No. 06-1420

In the Supreme Court of the United States

LARRY K. MILLER, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

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Petitioner contends that the procedures applied in the determination of his sentence are not in accordance with *United States* v. *Booker*, 543 U.S. 220 (2005). On November 3, 2006, this Court granted certiorari in *Claiborne* v. *United States*, No. 06-5618, and *Rita* v. *United States*, No. 06-5754, to address various aspects of sentencing procedure under *Booker*. Because the proper disposition of the petition for a writ of certiorari may be affected by the Court's resolution of *Claiborne* and *Rita*, the petition should be held pending the decisions in those cases, and then disposed of as appropriate in light of those decisions.[*]

[*] The government waives any further response to the petition unless this Court requests otherwise.

Respectfully submitted.

PAUL D. CLEMENT
Solicitor General

MAY 2007